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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,120	10/24/2003	Jerry Cismoski	CU-3415	1648
26530	7590	06/03/2005	EXAMINER	
LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604			CHAN, KO HUNG	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/693,120

Applicant(s)

CISMOSKI ET AL.

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3/22/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 10, "additional hook members are removably affixed to the hook members disposed at each end" is not enabling since the specification does not disclose that the additional hook members can be removably attached to other hook members but rather removably attached to the arm of the hanger device. Additionally, there is no mentioning of how the hook members are removably attached to the hanger device or each other as recited in claims 9 and 10. Further, claim 10, last two lines recites that "the second opening being disposed horizontally below the first opening" is neither shown nor discussed. The openings are vertically spaced not horizontally. Clarification required.

Claims 1-12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "Said hook member" recited on line 5, claim 1 is vague and indefinite as it is not clear whether applicant means one of the hook member at each end or both hook members at each end. Regarding claim 8, it is not clear whether or not the first and second opening is the same opening recited in claim 1. If so, examiner suggest in claim 8, "wherein hook member opening includes a first opening and second opening...". Claim 14 is vague and indefinite for the same reason as claim 8.

***Claim Rejections - 35 USC § 102***

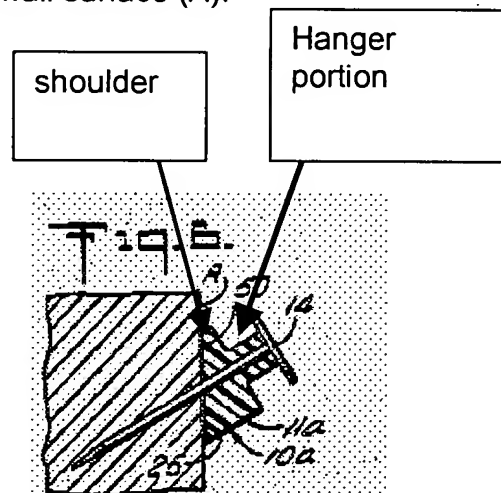
Claims 1, 3, 4, 6, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherman (US patent no. 3,294,356). Regarding claims 1, 3, 4, 6, and 7, Sherman in his figures 1-3 embodiment discloses a hanger device comprising a horizontal arm (9) having two ends, a pendulum level indicating means (18), and a hook member (12 and 13) disposed at each end of the horizontal arm, the hook member including an opening (28, 33) shaped and configured to direct a fastener inward and downwardly into a vertically extending wall surface, and an upwardly and forwardly extending hanger portion (16 and 17), a shoulder (the bend below reference number 12, figure 2 and 3) at the rear of the hanger portion, a lower arm (11) with markings (24) for use with pendulum.

Regarding claims 1, 3, 4, and 8, Sherman's figures 4-7 embodiment discloses a hanger device comprising a horizontal arm (59) having two ends, a level indicating

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means (68), and a hook member (62 and 63) disposed at each end of the horizontal arm, the hook member including an opening (76 and 77) shaped and configured to direct a fastener inward and downwardly into a vertically extending wall surface, and an upwardly and forwardly extending hanger portion (66 and 65), a shoulder (69) at the rear of the hanger portion, wherein the opening comprising a second opening (77) being disposed below the first opening (76).

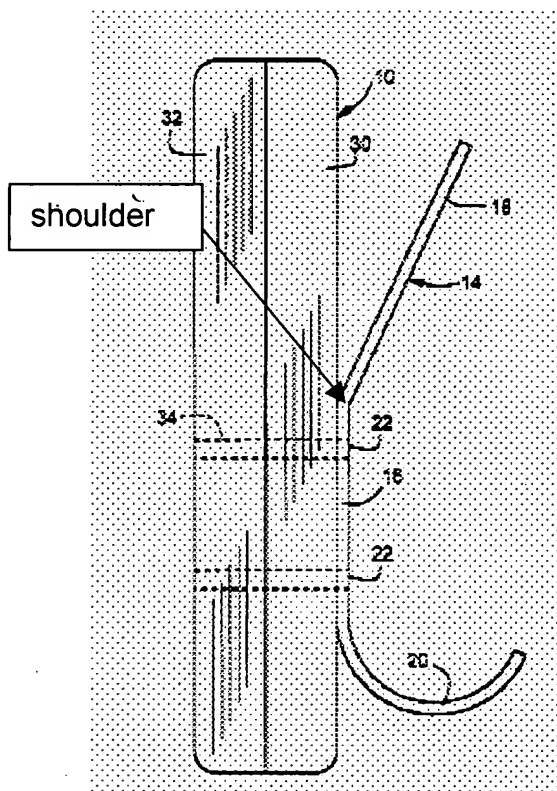
Claims 13 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kennedy Jr. (US patent no. 3,300,173). Kennedy discloses a hook member (see illustration below) having a hanger portion above opening (where nail 14 extends through) shaped to provide a tight fitting collar around a fastener (14) driven inward and downward into a vertical wall surface (A).



Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Liberati (US patent no. 5,967,344). Liberati discloses a hook member (16) comprising upwardly and forwardly extending hanger portion (18) disposed above first and second

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opening (22) and a shoulder portion (see illustration below) at the rear of the hanger portion.



### ***Claim Rejections - 35 USC § 103***

Claims 1-3 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liberati (US patent no. 5,967,344) in view of Sherman (US patent no. 3,294,356). Liberati discloses a hanger device having horizontal arm (12) with ends having hook members (14) and additional hook members removably affixed to the arm each hook member comprising upwardly and forwardly extending hanger portion (18) disposed above first and second opening (22) and a shoulder portion (see illustration above) at

the rear of the hanger portion. However, Liberati does not disclose a level indicator of the pendulum type.

Sherman in his figures 1-3 embodiment teaches a hanger device comprising a horizontal arm (9) having two ends, a level indicating means (18, figure 3 or 68, figure 7) which can be pendulum type for indicating horizontal alignment of the supports (Col. 1, last line and col. 2, lines 1-8), and a hook member (12 and 13) disposed at each end of the horizontal arm, the hook member including an opening (28, 33) shaped and configured to direct a fastener inward and downwardly into a vertically extending wall surface, and an upwardly and forwardly extending hanger portion (16 and 17), a shoulder (the bend below reference number 12, figure 2 and 3) at the rear of the hanger portion, a lower arm (11) with markings (24) for use with pendulum.

It would have been obvious to one of ordinary skill in the art to have modify the hanger device of Liberati such that a level indicating means is provided for indicating horizontal alignment of supports for aesthetic purposes as taught to be desirable by Sherman.

Claims 4, 5, 12, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liberati (US patent no. 5,967,344) in view of Sherman (US patent no. 3,294,356) and further in view of Kennedy Jr. (US patent no. 3,300,173). Liberati and Sherman combined disclosed all the claimed features of applicant's invention except for having the opening being a tight fitting collar directing the fastener downward and inward. Kennedy teaches a hook member (see illustration above) having a hanger portion above opening (where nail 14 extends through) shaped to provide a tight fitting

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collar around a fastener (14) driven inward and downward into a vertical wall surface (A). It would have been obvious to one of ordinary skill in the art to have modify opening of Liberati and Sherman combined such that it is a tight fitting collar directing the fastener downward and inward as taught by Kennedy, Jr. for the well-known advantage of increasing grip of fastener through vertical surface.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liberati (US patent no. 5,967,344) in view of Kennedy Jr. (US patent no. 3,300,173). Liberati disclosed all the claimed features of applicant's invention except for having the opening being a tight fitting collar directing the fastener downward and inward. Kennedy teaches a hook member (see illustration above) having a hanger portion above opening (where nail 14 extends through) shaped to provide a tight fitting collar around a fastener (14) driven inward and downward into a vertical wall surface (A). It would have been obvious to one of ordinary skill in the art to have modify opening of Liberati such that it is a tight fitting collar directing the fastener downward and inward as taught by Kennedy, Jr. for the well-known advantage of increasing grip of fastener through vertical surface.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 571-272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
May 31, 2005